

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 3, 2005**

**IN RE:**

**PETITION FOR APPROVAL OF THE  
INTERCONNECTION, COLLOCATION AND RESALE  
AGREEMENT BETWEEN UNITED TELEPHONE-  
SOUTHEAST, INC. AND KMC DATA LLC**

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**DOCKET NO.  
05-00192**

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**ORDER APPROVING THE INTERCONNECTION,  
COLLOCATION AND RESALE AGREEMENT**

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This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 12, 2005 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the interconnection, collocation and resale agreement negotiated between United Telephone-Southeast, Inc and KMC Data LLC filed on July 19, 2005. Collocation is one of the elements of interconnection included in 47 U.S.C. § 251, and as such collocation agreements require state approval pursuant to 47 U.S.C. § 252.

Based upon a review of the agreement, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn Code Ann. § 65-4-104 (2004)
- 2) The agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within United Telephone-Southeast, Inc 's service area.

3) The agreement is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

6) The agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn Code Ann § 65-4-104 (2004).

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the interconnection, collocation and resale agreement negotiated between United Telephone-Southeast, Inc. and KMC Data LLC is approved and is subject to the review of the Authority as provided herein.

  
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Ron Jones, Chairman

  
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Pat Miller, Director

  
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Sara Kyle, Director

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<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B)